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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/626,886 | 07/27/2000 | F. John Herrington | 4393-002 | 9534 |

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EXAMINER

JILLIONS, JOHN M

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 01/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/626,886

Applicant(s)

Herrington

Examiner

John M. Jillions

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-24 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 and 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11, 14, 15 and 21 is/are rejected.
- 7) ☒ Claim(s) 12-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the Group I invention in Paper No. 7 is acknowledged. The traversal is on the ground(s) that "there is strong community of interest between all the claims... in that they are directed to an article and a method of making that article", and that the "claimed article is the direct result of carrying out the claimed method". This is not found persuasive because as to the two sets of articles, the articles themselves are completely different in that the first group, claims 1-3, 5-15 and 21, is directed to a composite tube whereas the second group, claims 16-19, is directed to a helical construction. While these two articles may have certain similarities, the articles are used for different purposes, are made differently and are not similar in appearance or construction. As to the specific method of making a composite tube as set forth in claims 20, 22-24, it is submitted that the composite tube of the Group I invention could be made by other materially different methods—e.g. one in which the inner and outer walls and ribs are pressed from sheet material rather than extruded and the ribs are welded or adhesively attached to the inner and outer walls.

The requirement is still deemed proper and is therefore made FINAL. Claims 16-20, 22-24 are withdrawn from consideration as being drawn to non-elected inventions.

Specification

The disclosure is objected to because of the following informalities: an end quote should be added after "off-radial" on page 17, line 4; page 18, third paragraph, line 1, "figures 7 and 8" should be --figures 9 and 10--.

Appropriate correction is required.

Claim Objections

Claims 9-11 and 22 are objected to because of the following informalities: in claim 9, line 2, --of-- should be added after "one"; and claims 10, 11 and 22 are missing portions due to poor photocopying. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-11, 14-15 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Harry et al.

Claims 1-2, 5-11, 14-15 and 21 are further rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zahorski.

Allowable Subject Matter

Claims 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims are allowable since the prior art does not show or render obvious in a tube structure as set forth in claim 1 wherein at least some of the ribs are disposed at angles other than perpendicular to the inner and outer walls and at least some (or all as recited in claim 13) of the ribs are disposed helically between the inner and outer walls or tubes.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Boender, Jonda, Stonitsch, Morikawa et al; Smith, Innocenti et al; Liepold et al, Whitnah, Antliff, Casler, Vetter, Ziemek et al and Dowell are cited to show other composite tubes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Jillions whose telephone number is 703-308-2685. The examiner can normally be reached on Monday through Friday, 9:15 - 5:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Walsh can be reached on 703-305-4173. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


John M. Jillions
Primary Examiner
Art Unit 3653

jmj
January 4, 2002